

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 23 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No.

ASHVINKUMAR BHAGWANDAS MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR PV HATHI for Petitioner
MR.S.A.PANDYA, ADDL.PUBLIC PROSECUTOR for the
Respondent.

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/10/96

ORAL JUDGEMENT

The petitioner at the relevant time was serving as the Manager in the firm of Manubhai Rajnikant Shroff at Manavadar. The said firm was carrying on the banking business of receiving deposits from the public at large. It appears that the said firm had gone into liquidation and , therefore, could not refund the amount which it had

received by way of fixed deposits. A complaint was therefore filed before the Manavadar Police Station against the petitioner.

The petitioner was arrested and the chargesheet was also filed against him and one Rasiklal Haridas. The learned Judicial Magistrate, First Class, manavadar on 30-11-87 framed charge against the petitioner and the other accused for committing offences punishable under sections 120 (b), 406, 420, 34 and 114 of the Indian Penal Code. Being aggrieved by this, the petitioner preferred a revision being Criminal Revision Application No. 3/88 before the Sessions Court, Junagadh and the learned Sessions Judge by his judgment and order dated 11-12-89 rejected the said Criminal Revision Application. The petitioner has, therefore, challenged the said order by way of this petition under Article 227 of the Constitution of India and section 482 of the Criminal Procedure Code.

Heard Mr.P.V.Hathi, learned Advocate for the petitioner. It is the contention of Mr. Hathi that the petitioner was serving as the Manager of the firm which has gone into liquidation on a meagre salary of Rs.500/per month and, therefore, he cannot be held responsible for the offences alleged against him. In the submission of Mr. Hathi, there is no material against the petitioner and, therefore, the charge ought not to have been framed against him. Finally Mr.Hathi submitted that considering the fact that the petitioner has received two anonymous letters at Annexure "C" to the petition , the life of the petitioner is in danger, the case may be transferred to any other Court, except the court at Manavadar.

Now, it is an undisputed fact that the petitioner at the relevant time was serving as the Manager of the private firm of Manubhai Rajnikant Shroff and that in the capacity of Manager he accepted the deposits from the public at large and issued FD receipts and the people who paid the deposits have not received the amount of such deposits on account of the said firm going into liquidation. Therefore, *prima facie*, there is material against the petitioner. In any case, it cannot be contended that there is no case against the petitioner. Under the circumstances, once the involvement of the petitioner is *prima facie* established, it cannot be contended that the learned JMFC has committed an error in framing the charge against the petitioner. Whether the petitioner is responsible for committing the offences or not is a question to be decided at the trial and

, therefore, it is not desirable to express any opinion about the same at this stage.

Regarding the grievance made by the petitioner that his life is in danger, if the request for the petitioner to transfer the case to any other court, except the court at Manavadar, is accepted, it will cause unnecessary hardships, harassment and inconvenience to the witnesses and if at all the petitioner has any genuine apprehension to his life, he can always apply for police protection. Thus, on over all consideration of the case, I am of the opinion, that there is no merit whatsoever in this petition.

In the result, this petition fails and is dismissed. Rule is discharged with no order as to costs. Interim relief stands vacated. Considering the fact that much time has elapsed since the date of framing of the charge, the trial Court shall hear and dispose of the criminal case as expeditiously as possible.

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